

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2008-0284-AIR-E   **TCEQ ID:** RN102212685   **CASE NO.:** 35402  
**RESPONDENT NAME:** City of Denton

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Denton Landfill, 1527 South Mayhill Road, Denton, Denton County</p> <p><b>TYPE OF OPERATION:</b> Landfill</p> <p><b>SMALL BUSINESS:</b>   <input checked="" type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 9, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>     <b>TCEQ Attorney/SEP Coordinator:</b> None     <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886;     Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171     <b>Respondent:</b> Mr. David Dugger, Manager, City of Denton, 1527 South Mayhill Road, Denton, Texas 76208     Mr. Howard Martin, Assistant City Manager of Utilities, City of Denton, 1527 South Mayhill Road, Denton, Texas 76208     <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> November 5, 2007</p> <p><b>Date of NOE Relating to this Case:</b> January 30, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>AIR</b></p> <p>1) Failure to timely submit the annual Permit Compliance Certification ("PCC") for the period of August 8, 2006 through August 7, 2007 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to pay General Stormwater Permit fees for TCEQ Financial Administration Account No. 20020041 and associated late fees for fiscal year 2008 [30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702].</p>	<p><b>Total Assessed:</b> \$2,500</p> <p><b>Total Deferred:</b> \$500  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,000</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that on November 5, 2007, the Respondent submitted the PCC for the period of August 8, 2006 through August 7, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest; and</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>

Additional ID No(s): New Air Source Permit No. DF0387T



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision January 29, 2008

TCEQ

DATES

Assigned

4-Feb-2008

PCW

13-Feb-2008

Screening

13-Feb-2008

EPA Due

24-Oct-2008

## RESPONDENT/FACILITY INFORMATION

Respondent City of Denton

Reg. Ent. Ref. No. RN102212685

Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Major

## CASE INFORMATION

Enf./Case ID No. 35402

Docket No. 2008-0284-AIR-E

Media Program(s) Air

Multi-Media

No. of Violations 2

Order Type 1660

Enf. Coordinator Cheryl Thompson

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$2,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

0% Enhancement

Subtotals 2, 3, &amp; 7

\$0

Notes

No change due to no previous compliance history.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement\*

Subtotal 6

\$0

Total EB Amounts \$2

Approx. Cost of Compliance \$200

\*Capped at the Total EB \$ Amount

## SUM OF SUBTOTALS 1-7

Final Subtotal

\$2,500

## OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$2,500

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$2,500

## DEFERRAL

20%

Reduction

Adjustment

-\$500

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

## PAYABLE PENALTY

\$2,000

Screening Date 13-Feb-2008

Docket No. 2008-0284-AIR-E

PCW

Respondent City of Denton

Policy Revision 2 (September 2002)

Case ID No. 35402

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102212685

Media [Statute] Air

Enf. Coordinator Cheryl Thompson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No change due to no previous compliance history.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

<b>Screening Date</b> 13-Feb-2008 <b>Respondent</b> City of Denton <b>Case ID No.</b> 35402 <b>Reg. Ent. Reference No.</b> RN102212685 <b>Media [Statute]</b> Air <b>Enf. Coordinator</b> Cheryl Thompson <b>Violation Number</b> <input type="text" value="1"/>	<b>Docket No.</b> 2008-0284-AIR-E <b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision January 29, 2008</i>																				
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<b>Base Penalty</b> <input type="text" value="\$10,000"/>																					
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td><b>Release</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </tbody> </table> <p style="text-align: right;"><b>Percent</b> <input type="text" value="0%"/></p>		Major	Moderate	Minor		<b>Release</b>					Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
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Falsification	Major	Moderate	Minor																		
<input type="text"/>	x	<input type="text"/>	<input type="text"/>																		
<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 5px; text-align: center;">           100 % of the rule requirement was not met.         </div>																				
<b>Adjustment</b> <input type="text" value="\$7,500"/>																					
<input type="text" value="\$2,500"/>																					
<b>Violation Events</b>																					
<table style="width: 100%;"> <tr> <td style="width: 40%;"> <b>Number of Violation Events</b> <input type="text" value="1"/> </td> <td style="width: 20%; text-align: center;"> <input type="text" value="90"/> </td> <td style="width: 40%;"> <b>Number of violation days</b> </td> </tr> </table>		<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="90"/>	<b>Number of violation days</b>																	
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<b>mark only one with an x</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </tbody> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x								
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<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>																					
<div style="border: 1px solid black; padding: 5px; text-align: center;">           One single event is recommended.         </div>																					
<b>Economic Benefit (EB) for this violation</b>																					
<b>Statutory Limit Test</b>																					
<b>Estimated EB Amount</b> <input type="text" value="\$2"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,500"/>																				
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,500"/>																					

**Economic Benefit Worksheet**

Respondent City of Denton  
Case ID No. 35402  
Reg. Ent. Reference No. RN102212685  
Media Air  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$200	7-Sep-2007	5-Nov-2007	0.2	\$2	n/a	\$2
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to prepare and submit the annual permit compliance certification. Date required is the date the certification report was due. Final date is the date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$200

TOTAL

\$2

<b>Screening Date</b>	13-Feb-2008	<b>Docket No.</b>	2008-0284-AIR-E	<b>PCW</b>
<b>Respondent</b>	City of Denton	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	35402	PCW Revision January 29, 2008		
<b>Reg. Ent. Reference No.</b>	RN102212685			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Cheryl Thompson			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 205.6 and Tex. Water Code § 5.702			
<b>Violation Description</b>	Failed to pay General Stormwater Permit fees for TCEQ Financial Administration Account No. 20020041 and associated late fees for fiscal year 2008.			
<b>Base Penalty</b>				\$10,000

**>> Environmental, Property and Human Health Matrix**

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential				<b>Percent</b>
					0%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b>
					0%
<b>Matrix Notes</b>					
<b>Adjustment</b>					\$10,000
					\$0

**Violation Events**

Number of Violation Events		Number of violation days		
mark only one with an x	daily		<b>Violation Base Penalty</b>	\$0
	monthly			
	quarterly			
	semiannual			
	annual			
	single event			
No penalty is recommended because penalty and interest will be assessed at the next billing.				

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$0
	<b>Violation Final Penalty Total</b>
	\$0
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
\$0	



## Economic Benefit Worksheet

Respondent City of Denton  
Case ID No. 35402  
Reg. Ent. Reference No. RN102212685  
Media Air  
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance \$0TOTAL \$0



## Compliance History

Customer/Respondent/Owner-Operator:	CN600358980	City of Denton	Classification: AVERAGE	Rating: 2.56																																	
Regulated Entity:	RN102212685	CITY OF DENTON LANDFILL	Classification: HIGH	Site Rating: 0.00																																	
ID Number(s):	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">MUNICIPAL SOLID WASTE DISPOSAL</td> <td style="width: 50%;">PERMIT</td> <td style="width: 50%;">1590A</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4812100295</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>DF0387T</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>DF0387T</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>80971</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>2059</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>ACCOUNT NUMBER</td> <td>DF0387T</td> </tr> <tr> <td>STORMWATER</td> <td>PERMIT</td> <td>TXR05Q542</td> </tr> <tr> <td>PETROLEUM STORAGE TANK</td> <td>REGISTRATION</td> <td>76507</td> </tr> <tr> <td>REGISTRATION</td> <td></td> <td></td> </tr> <tr> <td>MUNICIPAL SOLID WASTE PROCESSING</td> <td>REGISTRATION</td> <td>48016</td> </tr> </table>				MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1590A	AIR NEW SOURCE PERMITS	AFS NUM	4812100295	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	DF0387T	AIR NEW SOURCE PERMITS	PERMIT	DF0387T	AIR NEW SOURCE PERMITS	REGISTRATION	80971	AIR OPERATING PERMITS	PERMIT	2059	AIR OPERATING PERMITS	ACCOUNT NUMBER	DF0387T	STORMWATER	PERMIT	TXR05Q542	PETROLEUM STORAGE TANK	REGISTRATION	76507	REGISTRATION			MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION	48016
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MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION	48016																																			
Location:	1527 S MAYHILL RD, DENTON, TX, 76208		Rating Date: September 01 07 Repeat Violator: NO																																		
TCEQ Region:	REGION 04 - DFW METROPLEX																																				
Date Compliance History Prepared:	February 13, 2008																																				
Agency Decision Requiring Compliance History:	Enforcement																																				
Compliance Period:	February 13, 2003 to February 13, 2008																																				
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History																																					
Name:	Cheryl Thompson		Phone:	(817)588-5886																																	

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- |                        |   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|------------------------|---|----------|------------|----------|---|------------|----------|---|------------|----------|---|------------|----------|---|------------|----------|
| A.                     | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| B.                     | Any criminal convictions of the state of Texas and the federal government.  |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| C.                     | Chronic excessive emissions events.   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| D.                     | The approval dates of investigations. (CCEDS Inv. Track. No.)   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | <table border="0" style="width: 100%;"> <tr> <td style="width: 5%;">1</td> <td style="width: 40%;">06/16/2004</td> <td style="width: 55%;">(275133)</td> </tr> <tr> <td>2</td> <td>11/29/2004</td> <td>(334043)</td> </tr> <tr> <td>3</td> <td>09/14/2005</td> <td>(431276)</td> </tr> <tr> <td>4</td> <td>11/20/2006</td> <td>(517594)</td> </tr> <tr> <td>5</td> <td>01/30/2008</td> <td>(611613)</td> </tr> </table> | 1        | 06/16/2004 | (275133) | 2 | 11/29/2004 | (334043) | 3 | 09/14/2005 | (431276) | 4 | 11/20/2006 | (517594) | 5 | 01/30/2008 | (611613) |
| 1                      | 06/16/2004  | (275133) |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| 2                      | 11/29/2004  | (334043) |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| 3                      | 09/14/2005  | (431276) |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| 4                      | 11/20/2006  | (517594) |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| 5                      | 01/30/2008  | (611613) |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| E.                     | Written notices of violations (NOV). (CCEDS Inv. Track. No.)  |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| F.                     | Environmental audits.   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| G.                     | Type of environmental management systems (EMSs).  |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| H.                     | Voluntary on-site compliance assessment dates.  |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| I.                     | Participation in a voluntary pollution reduction program.   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| J.                     | Early compliance.   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
| Sites Outside of Texas |   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |
|                        | N/A   |          |            |          |   |            |          |   |            |          |   |            |          |   |            |          |



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF DENTON  
RN102212685**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0284-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Denton ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 5 and 7. The Executive Director of the TCEQ, through the Enforcement Division, and the City, appear before the Commission and together stipulate that:

1. The City owns and operates a landfill at 1527 South Mayhill Road in Denton, Denton County, Texas (the "Site").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about February 4, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Thousand Dollars (\$2,000) of the administrative penalty and Five Hundred Dollars (\$500) is deferred contingent upon the City's timely and satisfactory compliance



with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on November 5, 2007, the City submitted the annual Permit Compliance Certification ("PCC") for the period of August 8, 2006 through August 7, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Site, the City is alleged to have:

1. Failed to submit the annual PCC for the period of August 8, 2006 through August 7, 2007, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.146(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on November 5, 2007.
2. Failed to pay General Stormwater Permit fees for TCEQ Financial Administration Account No. 20020041 and associated late fees for fiscal year 2008, in violation of 30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702, as documented during a record review conducted on November 5, 2007.

## **III. DENIALS**

The City generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Denton, Docket No. 2008-0284-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the City shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest with the notation, "City of Denton", Financial Administration Account No. 20020041, to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2. a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087





with a copy to:

Air Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

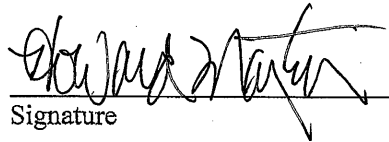
5/21/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

3/27/08  
Date

Howard Martin  
Name (Printed or typed)  
Authorized Representative of  
City of Denton

Assistant City Manager of Utilities  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

